



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|------------------------------|-------------|------------------------|---------------------|------------------|
| 10/647,745 | 08/25/2003 | Ronald William Lodholz | 9381.2 | 2296 |
| 20792 | 7590 | 05/19/2005 | EXAMINER | |
| MYERS BIGEL SIBLEY & SAJOVEC | | | REESE, DAVID C | |
| PO BOX 37428 | | | ART UNIT | |
| RALEIGH, NC 27627 | | | PAPER NUMBER | |
| | | | 3677 | |

DATE MAILED: 05/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | | |
|------------------------------|------------------------|--|-------------------------|--|
| Office Action Summary | Application No. | | Applicant(s) | |
| | 10/647,745 | | LODHOLZ, RONALD WILLIAM | |
| | Examiner | | Art Unit | |
| | David C. Reese | | 3677 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Amendment: 4/4/2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-49 is/are pending in the application.
- 4a) Of the above claim(s) 39-49 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This office action is in response to Applicant's amendment filed 4/4/2005.

Status of Claims

- [1] Claims 1-49 are pending.

Claim Rejections - 35 USC § 102

- [2] The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

- [3] Claims 1, 6-9, 12-13 16-17, 22-25, 28-29, 32-38 are rejected under 35 U.S.C. 102(b) as being anticipated by Jenkins, US-4,488,415.

Jenkins teaches of an article of decorative jewelry.

As for Claim 1, Jenkins teaches of an article of decorative jewelry comprising:

a)

- 1) a base member (12 in Fig. 2) defining a base cavity (inside of 12 in Fig. 2) and having first (12 in Fig. 2) and second opposed ends (8 in Fig. 2), the base member tapering from

the first end to the second end (20 tapering downward in Fig. 3) and defining a base opening in the first end (12 in Fig. 2); and

2) a bezel member (16 in Fig. 2) mounted on the first end of the base member (16 mounted to 12 via 14 in Fig. 2) and defining a bezel opening (16 in Fig. 2);

3) wherein the bezel member is bonded to the first end of the base member (16 mounted to 12 via 14 in Fig. 2); and

b) a gemstone (4 in Fig. 5) mounted in the gemstone mount assembly (Fig. 5) and captured between the base member and the bezel member (4 between 20 and 16), wherein the gemstone is received in the base cavity (4 is received in 20) and extends through the base opening and the bezel opening (extends outside of both 20 and the bezel opening 16 as shown in Fig. 4).

Re: Claim 6, wherein the bezel member (16) is further secured to the first end of the base member (20) by a friction fit engagement (16 on top of 20 can be considered a friction fit engagement).

As for Claim 7, Jenkins teaches of an article of decorative jewelry, Re: Claim 1, wherein the base member has an outer shape that is substantially conical or frusto-conical (12 in Fig. 3).

As for Claim 8, Jenkins teaches of an article of decorative jewelry, Re: Claim 1, wherein the base member has an outer shape that is substantially pyramidal or frusto-pyramidal (12 in Fig. 3).

As for Claim 9, Jenkins teaches of an article of decorative jewelry, Re: Claim 1, wherein the base opening is substantially oval (10 in Fig. 1).

As for Claim 12, Jenkins teaches of an article of decorative jewelry, Re: Claim 1, including a decorative embossment defined in an outer surface of the base member (decorative spaces between vertical segments 8 in Fig. 2).

As for Claim 13, Jenkins teaches of an article of decorative jewelry, Re: Claim 1, including a decorative cutout defined in an outer surface of the base member and communicating with the base cavity (decorative cutouts between vertical segments 8 in Fig. 2).

As for Claim 16, Jenkins teaches of an article of decorative jewelry, Re: Claim 1, wherein the gemstone (4 in fig. 5) includes a base portion disposed in the base cavity (Fig. 5), a crown extending through and beyond the bezel member opposite the base member (4 in Fig. 4), and a girdle disposed between the bezel member and the base member (the sides of the stone disposed between both 20 and 16 in Fig. 4).

As for Claim 17, Jenkins teaches of an assembly for use with a decorative stone comprising:

- a) a base member (12 in Fig. 2) defining a base cavity (inside of 12 in Fig. 2) and having first (12 in Fig. 2) and second opposed ends (8 in Fig. 2), the base member tapering from the first end to the second end (20 tapering downward in Fig. 3) and defining a base opening in the first end (12 in Fig. 2); and
- b) a bezel member (16 in Fig. 2) mounted on the first end of the base member (16 mounted to 12 via 14 in Fig. 2) and defining a bezel opening (16 in Fig. 2);
- c) wherein the bezel member is bonded to the first end of the base member (16 mounted to 12 via 14 in Fig. 2); and

d) wherein the base member (12 in Fig. 2) and the bezel member (16 in Fig. 2) are adapted to capture the gemstone (Fig. 5) therebetween such that the gemstone is received in the base cavity (4 in 20 in Fig. 5) and extends through the base opening and the bezel opening (4 in Fig. 4).

Re: Claim 22, wherein the bezel member (16) is further secured to the first end of the base member (20) by a friction fit engagement (16 on top of 20 can be considered a friction fit engagement).

As for Claim 23, Jenkins teaches of an article of decorative jewelry, Re: Claim 17, wherein the base member has an outer shape that is substantially conical or frusto-conical (12 in Fig. 3).

As for Claim 24, Jenkins teaches of an article of decorative jewelry, Re: Claim 17, wherein the base member has an outer shape that is substantially pyramidal or frusto-pyramidal (12 in Fig. 3).

As for Claim 25, Jenkins teaches of an article of decorative jewelry, Re: Claim 17, wherein the base opening is substantially oval (10 in Fig. 1).

As for Claim 28, Jenkins teaches of an article of decorative jewelry, Re: Claim 17, including a decorative embossment defined in an outer surface of the base member (decorative spaces between vertical segments 8 in Fig. 2).

As for Claim 29, Jenkins teaches of an article of decorative jewelry, Re: Claim 17, including a decorative cutout defined in an outer surface of the base member and communicating with the base cavity (decorative cutouts between vertical segments 8 in Fig. 2).

As for Claim 32, Jenkins teaches of an article of decorative jewelry, Re: Claim 17, wherein the gemstone (4 in fig. 5) includes a base portion disposed in the base cavity (Fig. 5), a crown extending through and beyond the bezel member opposite the base member (4 in Fig. 4), and a girdle disposed between the bezel member and the base member (the sides of the stone disposed between both 20 and 16 in Fig. 4).

As for Claim 33, Jenkins teaches of an article of decorative jewelry comprising:

- a) a gemstone mount assembly including (Fig. 4):
 - 1) a base member (12 in Fig. 2) defining a base cavity (inside of 12 in Fig. 2) and having first (12 in Fig. 2) and second opposed ends (8 in Fig. 2), the base member tapering from the first end to the second end (20 tapering downward in Fig. 3) and defining a base opening in the first end (12 in Fig. 2); and
 - 2) a bezel member (16 in Fig. 2) mounted on the first end of the base member (16 mounted to 12 via 14 in Fig. 2) and defining a bezel opening (16 in Fig. 2);
 - 3) wherein at least one of a decorative embossment and a decorative cutout is defined in an outer surface of the base member (decorative spaces/cutouts between vertical segments 8 in Fig. 2); and
- b) a gemstone mounted in the gemstone mount assembly (Fig. 4) and captured between the base member and the bezel member (4 between 20 and 16), wherein the gemstone is received in the base cavity (4 in 20 in Fig. 5) and extends through the base opening and the bezel opening (4 in Fig. 4).
- c) wherein the at least one of a decorative embossment and a decorative cutout represents a brand designation (Note that the courts have found that matters relating to

Art Unit: 3677

ornamentation only, which have no mechanical function, cannot be relied upon to patentably distinguish the claimed invention from the prior art. *In re Seid*, 161 F.2d 229, 73 USPQ 431 (CCPA 1947)).

As for Claim 34, Jenkins teaches of an article of decorative jewelry, Re: Claim 33, including a decorative embossment defined in an outer surface of the base member (decorative spaces between vertical segments 8 in Fig. 2).

As for Claim 35, Jenkins teaches of an article of decorative jewelry, Re: Claim 33, including a decorative cutout defined in an outer surface of the base member and communicates with the base cavity (decorative cutouts between vertical segments 8 in Fig. 2).

As for Claim 36, Jenkins teaches of an article of decorative jewelry comprising:

- a) a base member (12 in Fig. 2) defining a base cavity (inside of 12 in Fig. 2) and having first (12 in Fig. 2) and second opposed ends (8 in Fig. 2), the base member tapering from the first end to the second end (20 tapering downward in Fig. 3) and defining a base opening in the first end (12 in Fig. 2); and
- b) a bezel member (16 in Fig. 2) mounted on the first end of the base member (16 mounted to 12 via 14 in Fig. 2) and defining a bezel opening (16 in Fig. 2);
- c) wherein at least one of a decorative embossment and a decorative cutout is defined in an outer surface of the base member (decorative spaces/cutouts between vertical segments 8 in Fig. 2); and
- d) wherein the base member (12 in Fig. 2) and the bezel member (16 in Fig. 2) are adapted to capture the gemstone (Fig. 5) therebetween such that the gemstone is received in the

Art Unit: 3677

base cavity (4 in 20 in Fig. 5) and extends through the base opening and the bezel opening (4 in Fig. 4).

e) wherein the at least one of a decorative embossment and a decorative cutout represents a brand designation (Note that the courts have found that matters relating to ornamentation only, which have no mechanical function, cannot be relied upon to patentably distinguish the claimed invention from the prior art. *In re Seid*, 161 F.2d 229, 73 USPQ 431 (CCPA 1947)).

As for Claim 37, Jenkins teaches of an article of decorative jewelry, Re: Claim 36, including a decorative embossment defined in an outer surface of the base member (decorative spaces between vertical segments 8 in Fig. 2).

As for Claim 38, Jenkins teaches of an article of decorative jewelry, Re: Claim 36, including a decorative cutout defined in an outer surface of the base member and communicates with the base cavity (decorative cutouts between vertical segments 8 in Fig. 2).

[4] Claims 1, 14, 17, and 30 are rejected under 35 U.S.C. 102(b) as being anticipated by Thompson, US-2,811,024.

Thompson teaches of an article of decorative jewelry having means for successive temporary and permanent mounting of a platen.

As for Claim 1, Thompson teaches of an article of decorative jewelry comprising:

a)

1) a base member (9 in Fig. 2) defining a base cavity (inside of 9 in Fig. 2) and having first (9 in Fig. 2) and second opposed ends (7 in Fig. 2), the base member tapering from

Art Unit: 3677

the first end to the second end (9 tapering toward 7 in Fig. 2) and defining a base opening in the first end (inside of 9 in Fig. 2); and

2) a bezel member (17 in Fig. 3) mounted on the first end of the base member (17 mounted to 9 via 21 and 20 in Figs. 2 and 3) and defining a bezel opening (16 in Fig. 3);

3) wherein the bezel member is bonded to the first end of the base member (17 mounted to 9 via 21 and 20 in Figs. 2 and 3); and

b) a gemstone (15 in Fig. 3) mounted in the gemstone mount assembly (Fig. 3) and captured between the base member and the bezel member (Fig. 3 into Fig. 2), wherein the gemstone is received in the base cavity (Fig. 3 into Fig. 2, 14 in the cavity) and extends through the base opening and the bezel opening (extends outside of both 9 and the bezel opening 16 as shown in Figs. 3 into Fig. 2).

As for Claim 14, Thompson teaches of an article of decorative jewelry, Re: Claim 1, including a recess formed in a rear surface of the bezel member (20 in Fig. 3), wherein a portion of the first end of the base member is received in the recess (21 of 9 into 20 as shown in Figs. 3 into Fig. 2).

As for Claim 17, Thompson teaches of an assembly for use with a decorative stone comprising:

a) a base member (9 in Fig. 2) defining a base cavity (inside of 9 in Fig. 2) and having first (9 in Fig. 2) and second opposed ends (7 in Fig. 2), the base member tapering from the first end to the second end (9 tapering toward 7 in Fig. 2) and defining a base opening in the first end (inside of 9 in Fig. 2); and

- b) a bezel member (17 in Fig. 3) mounted on the first end of the base member (17 mounted to 9 via 21 and 20 in Figs. 2 and 3) and defining a bezel opening (16 in Fig. 3);
- c) wherein the bezel member is bonded to the first end of the base member (17 mounted to 9 via 21 and 20 in Figs. 2 and 3); and
- d) wherein the base member (9 in Fig. 2) and the bezel member (17 in Fig. 3) are adapted to capture the gemstone (Fig. 3 into Fig. 2) therebetween such that the gemstone is received in the base cavity (Fig. 3 into Fig. 2, 14 in the cavity) and extends through the base opening and the bezel opening (extends outside of both 9 and the bezel opening 16 as shown in Figs. 3 into Fig. 2).

As for Claim 30, Thompson teaches of an article of decorative jewelry, Re: Claim 17, including a recess formed in a rear surface of the bezel member (20 in Fig. 3), wherein a portion of the first end of the base member is received in the recess (21 of 9 into 20 as shown in Figs. 3 into Fig. 2).

Claim Rejections - 35 USC § 103

- [5] The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

- [6] Claims 2-5 (18-21) and 10-11 (26-27) are rejected under 35 U.S.C. 103(a) as being unpatentable over Jenkins US-4,488,415, in view of Sammartino US-1,842,427, and further in view of case law.

Art Unit: 3677

Although the invention is not identically disclosed or described as set forth 35 U.S.C. 102, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a designer having ordinary skill in the art to which said subject matter pertains, the invention is not patentable.

As for Claims 2-5, Jenkins teaches of that stated in Claim 1.

The difference between the claims and Jenkins is the claims recite: including at least one weld spot or weld strip (2); or laser weld spot or laser weld strip (3); or at least one spot or strip of solder (4); or at least one spot or strip of adhesive (5) between the bezel member and the first end of the base member. Sammartino discloses a gemstone mount assembly similar to that of Jenkins including a base member, bezel member, and gemstone to be mounted. In addition, Sammartino further teaches in column 2 line 55, “that said parts are assembled in permanent relationship to provide a unitary structure by soldering or otherwise securing the several sections together”. More specifically, Sammartino discloses in page 2, column 3, line 26 that, “The upper rim of the section 18 (bezel) is adapted to be swaged over the edge of the jewel 17 to secure the latter in the setting...” Also, from the same column, line 19, “To secure the jewel in the setting a cover or rim-section (bezel) (similar to 140 disclosed by applicant) is provided, its sides conforming to the flat sides of the shell 10 (base member) to adapt its lower edges to be soldered thereto. It would have been obvious to one of ordinary skill in the art, having the disclosures of Jenkins and Sammartino before him at the time the invention was made, to modify the relationship (connection) between the bezel (16) and base member (12) of Jenkins to incorporate a permanent attachment utilizing either soldering or otherwise securing, as in

Sammartino. One would have been motivated to make such a combination because one may want a permanent gemstone mount, that is, one that is not able to be interchanged, and one way of doing such is to utilize soldering, as taught by Sammartino, or other such securing methods as proposed by applicant (adhesive, weld, laser weld), which also happen to be well known and obvious to one skilled in the art of jewelry.

Re: Claim 10 (26), Jenkins discloses wherein the base member (12) includes a plurality of separately formed, coupled segments (Note that it has been held that constructing a formerly integral structure in various elements involves only routine skill in the art. *Nerwin v. Erlichman*, 168 USPQ 177, 179).

Re: Claim 11 (27), Jenkins discloses wherein the base member is unitarily formed (12, also note that it has been held to be within the general skill of a worker in the art to make plural parts unitary as a matter of obvious engineering choice. *In re Larson*, 144 USPQ 347 (CCPA 1965); *In re Lockart*, 90 USPQ 214 (CCPA 1951).

[7] Claims 15 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jenkins, US-4,488,415 in view of case law.

Jenkins discloses the claimed invention except for an earring post in place of the ring at the second end of the base member. It would have been obvious to one having ordinary skill in the art at the time the invention as made to incorporate an additional design utilizing the gem setting for use with an earring, as it is readily known within the art that such settings are extremely commonplace within a variety of necklaces, earrings, rings, etc., as a change in the shape of a prior art device is a design consideration within the skill of the art. *In re Dailey*, 357 F.2d 669, 149 USPQ 47 (CCPA 1966).

Response to Arguments

[8] Applicant's arguments filed 4/4/2005 regarding rejections under 35 U.S.C. 102 have been fully considered but they are not persuasive.

To begin, applicant argues that in Jenkins the bezel is not bonded to the top ring; that it is instead mechanically joined, and such a join cannot be properly regarded as bonded. In response, Examiner would like to refer to the exact definition of the word, "bonded," which was obtained from dictionary.com (see enclosed printout). To preface, Claims in a pending application should be given their broadest reasonable interpretation. *In re Pearson, 181 USPQ 641 (CCPA 1974)*. Continuing, one definition of bonded is the following: [1. Something, such as a fetter, cord, or band, that binds, ties, or fastens things together]. Thus, in the case of Jenkins, a mechanical connection between the bezel and base member, can in fact, be regarded as bonded since the connection is [something that binds, ties, or fastens things together].

Applicant also argues the rejection of Claim 1 over Thompson. Applicants are correct in assuming that given the broadest reasonable interpretation, the platen 12 can be considered a bezel, and the structure of 9 and below (including 7) can be considered a base member. Applicants are also correct that the gem is being held by the clamps 17, not the clamps 9. This, however, was not claimed in Claim 1. What was claimed was that the gemstone is mounted in the gemstone mount assembly and captured between the base member and the bezel member. This Claim, given its broadest reasonable interpretation possible does in fact account for a gemstone (15) mounted in the gemstone mount assembly (Fig. 3) and captured between the base member and the bezel member. Once Fig. 3 is inserted into Fig. 2, the gemstone 15 will indeed

Art Unit: 3677

be captured between both (the gemstone is between, in the center of both) the base member 9 and the bezel member 12.

Concerning the argument surrounding the use of the term bonded in claim 1 with respect to Thompson, Applicant is encouraged to read the explanation with regard to the rejection surrounding Jenkins and the use of the term bonded, as one will note that the bezel member according to dictionary.com can be in fact considered bonded to the base member.

In response to the product-by-process claims (2-5), the examiner has noted the amendment to help address the claims toward full patentable weight. As a result, the examiner has rejected the newly amended claims with that of Jenkins in view of Sammartino (please see the 103 rejection above).

Applicant also argues Claim 17 with the same traverse that surrounded Claim 1 with respect to Thompson. The explanation behind this can be viewed above.

Examiner notes amended claims 33 and 36, referring to a brand designation; but as discussed above in section 102 rejections, ornamentation that has no mechanical function is not given any patentable weight. Note that the courts have found that matters relating to ornamentation only, which have no mechanical function, cannot be relied upon to patentably distinguish the claimed invention from the prior art. *In re Seid*, 161 F.2d 229, 73 USPQ 431 (CCPA 1947).

Art Unit: 3677

Conclusion

[9] Applicant's amendment, as well as examiner's lack of persuasion by applicants arguments necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

[10] Any inquiry concerning this communication or earlier communications from the examiner should be directed to David C. Reese whose telephone number is (571) 272- 7082. The examiner can normally be reached on 7:30 am - 5:00 pm M-Th, and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J.J. Swann can be reached on (571) 272-7075. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sincerely,
David Reese
Examiner
Art Unit 3677


ROBERT J. SANDY
PRIMARY EXAMINER